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# AICPA *Washington Report*

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#### FEDERAL DEPOSIT INSURANCE CORPORATION

Compliance with SEC disclosure regulations under the Securities Exchange Act of 1934 section 12(i) is the objective of recent proposed rulemaking from the FDIC (see the 9/19/80 Fed. Reg., pp. 62480-496). The proposal will bring FDIC regulations into substantial similarity with those of the SEC. The regulations amend 12 CFR Part 335 and cover safe harbor for projections, foreign back reporting, corporate governance dividend reinvestment plans, tender offers and going private. The 1934 Act requires that the FDIC issue rules substantially similar to those of the SEC or publish its reasons for failing to do so. Comments are requested by 11/18/80. For additional information contact Gerald Gervino at 202/389-4422.

#### FEDERAL TRADE COMMISSION

The Commission announced on 9/16/80, it was closing its three year investigation of the accounting profession. Opened in 1977, the investigation examined state activities, which are primarily conducted through state boards responsible for licensing and regulation; and activities of the major professional associations, whose rules are often followed by state boards and state societies. The Commission noted that voluntary changes have alleviated many of the concerns that prompted the investigation. While the Commission said further action is not necessary at this time, it encouraged states and private professional organizations to amend any rules that do not comply with recent legal decisions. According to the FTC press release, closing this investigation does not prevent the Commission from taking future action if it determines current voluntary efforts are inadequate. For additional information contact Linda Singer at 202/523-3830.

#### HEALTH AND HUMAN SERVICES, DEPARTMENT OF

"Consulting Services Reporting" is the new clause that has been adopted for use in all consulting services contracts awarded by the Department (see the 9/15/80 Fed. Reg., pp. 60903-04). The procurement regulations were amended as a result of a 7/80 OMB directive that Federal agencies take specific actions to develop a clause, requiring a contractor to provide certain data on the cover of reports submitted under the contract. Information required under the new clause includes: name and business address of the contractor; contract number; contract dollar amount; whether the contract was competitively or noncompetitively awarded; name of the department's project officer and complete office identification and address; and names of the managerial and professional personnel responsible for the content and preparation of the report. The rule is effective as of 8/30/80. For additional information contact Ed Lanham at 202/245-0481.

#### INTERSTATE COMMERCE COMMISSION

Rules to expedite the elimination of restrictions or broaden overly narrow authorizations have been proposed recently by the Commission

(see the 9/16/80 Fed. Reg., pp. 61327-33). The Commission intends to implement by regulation, procedures to process applications seeking removal of operating restrictions on their outstanding certificates and permits. This action is required under legislative mandate in the Motor Carrier Act of 1980. Comments are requested by 10/31/80. For additional information contact Howell Sporn at 202/275-7575.

In a related matter the ICC has proposed rulemaking to eliminate gateway restrictions and circuitous route limitations on motor common carriers of property. The rules would provide more route freedom and are intended to increase competition and result in operating economics and fuel savings. Comments are requested by 10/31/80. For additional information contact Karl Morell at 202/275-7953.

#### SECURITIES AND EXCHANGE COMMISSION

By a unanimous vote of the four Commissioners present, the SEC, on 9/18/80, endorsed a proposed codification of the Federal securities law. The proposed Federal Securities Code is an 11 year old project of the American Law Institute, which would uniformly codify all major securities related legislation passed by Congress since 1933. The ALI approved the proposal in 1978, however, legislative action was postponed until the SEC determined its position on the code's provisions. The next major step for the code will be to gain the endorsement of the ABA Committee on Federal Regulation of Securities for the changes negotiated by the SEC staff and the Code drafters. The next meeting of the ABA Committee is scheduled for 10/16/80. SEC Chairman Williams characterized the code as "clearly a well crafted and polished legislative recommendation, one which would, on balance, benefit the public interest if enacted into law."

A procedure to prevent information from being released under a Freedom of Information Act request has been adopted by the SEC (see the 9/19/80 Fed. Reg., pp. 62418-23). The proposal provides that on the request of persons submitting information to the Commission, the Commission may invoke FOIA exemptions to protect personal privacy, business confidentiality or for other reasons recognized by Federal law. The rule will become effective 10/20/80, but comments will be accepted until 10/19/80. For additional information contact Harlan Penn at 202/272-2454.

#### SMALL BUSINESS ADMINISTRATION

Rules to implement the "Small Business Employee Ownership Act of 1980", Title V of P.L. 96-302, have been proposed recently by the Administration (see the 9/17/80 Fed. Reg., pp. 61637-40). In order to encourage the ownership of small corporations, the new law authorizes the Small Business Administration to make deferred participation (guaranteed) loans to certain employees trusts to enable them to acquire an interest in the small business with which they are associated. Comments are requested by 10/17/80. For additional information contact Richard Wray at 202/653-6470.

Small Business Administration proposals to amend the SBA "size standards" will be delayed until at least 3/31/81, if the Congress and the President agree with a recent amendment of Sen. Lowell Weicker, Jr. (R-Conn). On 9/16/80, the Senate Select Committee on Small Business held a mark-up session on H.R. 5612, a bill to amend section 8(a) of the Small Business Act. During this session, Sen. Weicker proposed an amendment to the bill which provided that the "Administration shall not promulgate, amend, or rescind any rule or regulation with respect to size standards prior to March 31, 1981." Sen. Weicker's amendment was accepted by the Committee members. The SBA published an advance notice of proposed rulemaking in the 3/10/80 Federal Register which would, if adopted, affect over 700 industry groups. The proposed new SBA size standard for "accounting, auditing, and bookkeeping services" is 25 employees. This 25 limit includes clerical, custodial, and part-time employees and is not a limit of 25 professionals. The SBA held a number of regional hearings on these proposals in widely-scattered locations. Indications are that SBA plans additional public hearings. Congress has also scheduled hearings on the issue.

#### TREASURY, DEPARTMENT OF

Investment Credit for Energy Policy is the subject of an IRS notice of proposed rulemaking (see the 9/19/80 Fed. Reg., pp. 62496-506). The document, according to IRS, is intended to provide the public with the guidance needed to comply with changes in investment credit for energy property, occasioned by the Energy Tax Act of 1978. The proposed regulation does not reflect any amendments under sections 221-223 of the Crude Oil Windfall Profit Tax Act of 1980. A subsequent notice of rulemaking will cover those amendments. Written comments and requests for a public hearing must be delivered or mailed by 11/18/80. The amendments are proposed to be effective, in general, for the period beginning on 10/1/78, and ending 12/31/82. For additional information contact Richard Mull at 202/566-3458.

Guidelines for applying the tax return preparer penalty under section 6694(a) of the IRC were announced by the IRS on 9/15/80. These guidelines, which deal with the application of the penalty for negligent disregard of rules and regulations, respond to the standards which the AICPA Federal Tax Division has suggested to IRS Commissioner Jerome Kurtz and his staff during the past year. The tax division has been instrumental in the development of both the concept and the standards which have been adopted and feel that they represent a major step in the right direction. The guidelines are contained in Revenue Procedure 80-40 and Revenue Rulings 80-262 through 80-266, and provide examples illustrating their application. Also, the Internal Revenue Manual (IRM) will be amended to set out revised procedures for the examination of returns where the penalty may be asserted. The new guidelines involve, among other measures: a required consultation with examination group managers prior to investigation; a review of relevant facts and circumstances in each case (including the nature and frequency of error and inquiry as to a preparer's quality control procedures); and, a consideration of whether the understatement of tax liability was a material amount in

relation to the correct tax liability. In addition, the IRM will be amended so that any program for the examination of returns prepared by one preparer must be approved by a district or assistant district director and will be limited to abuse situations.

SPECIAL: H.R. 5295, RESTORATION OF SOCIAL SECURITY BENEFITS, CLEARS FINANCE COMMITTEE

H.R. 5295, a bill to restore lost social security benefits and ensure future benefits to certain categories of retired, previously self-employed persons including CPAs, took its most significant legislative step in approximately five months. On 9/16/80, the Senate Finance Committee voted unanimously to favorably report H.R. 5295 out of the Committee for consideration by the entire Senate. In a short deliberation, the Finance Committee added several amendments which do not affect the bill adversely but could offset the estimated \$96 million cost of the original legislation. However, the opportunity to enact this legislation into law this year is difficult to assess. Full Senate approval is required. Differences between this version with the amendments and the earlier House version must be reconciled. Congress is anxious to avoid another session after the November elections but may not find the time to act on numerous pieces of priority legislation. The AICPA has been acting as the unofficial coordinator for other groups affected by H.R. 5295, including lawyers, farmers, insurance agents, and real estate agents. Representatives of these groups will meet on 9/22/80 to discuss ways in which to expedite passage of this legislation.

For additional information, please contact:

Jim Kovakas, Gina Rosasco, Nick Nichols  
or Kathee Baker

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